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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/766,002      | 01/29/2004  | Yoshinori Inoue      | 118475              | 3640             |

25944 7590 12/14/2005

OLIFF & BERRIDGE, PLC  
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EXAMINER

LEWIS, RALPH A

ART UNIT PAPER NUMBER

3732

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

②

|                              |                               |                              |  |
|------------------------------|-------------------------------|------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/766,002 | Applicant(s)<br>INOUE ET AL. |  |
|                              | Examiner<br>Ralph A. Lewis    | Art Unit<br>3732             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/29/04, 2/28/05</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Crowson (US 3,566,869).

Crowson discloses a dental system for cleaning a user's teeth having a mouthpiece 1 made for the user, a supply unit 2 connected to the mouthpiece, a drain unit 6 connected to the mouthpiece and suction unit 4 connected with the drain unit.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowson (US 3,566,869) in view of Viskup (US 5,443,386).

Viskup for a similar teeth cleaning device teaches that it is desirable to have a soft flexible resin 21 that contacts and seals against the patient's gums and a harder

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portion that maintains the space between the teeth and mouthpiece in order to allow for fluid circulation. To have provided the Crowson mouthpiece with two different plastics so as to enhance the seal against the gums while maintaining the circulation space as taught by Viskup would have been obvious to one of ordinary skill in the art.

In regard to claim 7, Viskup teaches that the cleaning may be improved by vibrating the mouthpiece (see column 3, lines 40-42). To have added a vibration assembly to the Crowson mouthpiece in order to further aid in the cleaning of the user's teeth would have been obvious to one of ordinary skill in the art in view of the teaching by Viskup.

### Prior Art

Applicant's information disclosure statements of January 29, 2004 and February 28, 2005 have been considered and an initialed copy enclosed herewith.

The following references are made of record:

| Document Number     | Date    | Inventor Names     | Classification |
|---------------------|---------|--------------------|----------------|
| <u>US-3,380,446</u> | 04-1968 | MARTIN LEONARD G   | 601/2          |
| <u>US-3,401,690</u> | 09-1968 | MARTIN LEONARD G   | 604/22         |
| <u>US-3,527,218</u> | 09-1970 | WESTINE JOHN R     | 433/80         |
| <u>US-3,731,675</u> | 05-1973 | Kelly, James J.    | 601/164        |
| <u>US-4,106,501</u> | 08-1978 | Ozbey et al.       | 601/164        |
| <u>US-4,164,940</u> | 08-1979 | Quinby, James D.   | 601/164        |
| <u>US-4,560,351</u> | 12-1985 | Osborne, Travis H. | 433/80         |
| <u>US-5,104,315</u> | 04-1992 | McKinley, Earl O.  | 433/80         |
| <u>US-6,893,259</u> | 05-2005 | Reizenon, Igor     | 433/29         |
| <u>US-803,474</u>   | 10-1905 | Dennis             |                |


**Allowable Subject Matter**

Claims 8-11 are allowable over the prior art of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R.Lewis  
December 12, 2005

  
Ralph A. Lewis  
Primary Examiner  
Au 3732